DOCUMENT RESUME

ED 382 545 SO 025 054

TITLE	Antidote: Civic Responsibility. Oregon Law.
INSTITUTION	Phi Alpha Delta Law Fraternity International, Washington, DC.
SPONS AGENCY	Department of Justice, Washington, D.C. Office of Juvenile Justice and Delinquency Prevention.
PUB DATE	93
CONTRACT	93-JS-CX-005
NOTE	17p.; For related lesson materials, see ED 372 024. For other state supplements, see SO 025 022-066.
AVAILABLE FROM	Phi Alpha Delta Public Service Center, 1511 K Street, N.W., Suite 611, Washington, DC 20005.
PUB TYPE	Guides - Classroom Use - Instructional Materials (For Learner) (051) -- Guides - Classroom Use - Teaching Guides (For Teacher) (052)
EDRS PRICE	MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS	*Citizenship Education; *Constitutional Law; *Criminal Law; Drug Education; *Drug Legislation; High Schools; Illegal Drug Use; Intermediate Grades; Junior High Schools; *Law Related Education; Middle Schools; Resource Materials; Social Studies; State Legislation
IDENTIFIERS	*Oregon; Phi Alpha Delta Law Fraternity

ABSTRACT

Designed for middle school through high school students, this unit contains eight lesson plans that focus on Oregon state law. The state lessons correspond to lessons in the volume, "Antidote: Civic Responsibility. Drug Avoidance Lessons for Middle School & High School Students." Developed to be presented by educators, law student, or attorneys, the state lessons are interactive and sequential, although individual lessons can stand alone. The document includes legal information about driving while intoxicated, drug offenses, sentencing, and drug and alcohol statutes written specifically to combat juvenile abuse. (RJC)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
☒ This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.
• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

"PERMISSION TO REPRODUCE THIS MATERIAL IN **OTHER THAN PAPER COPY** HAS BEEN GRANTED BY

JACK C. HANNA

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

ED 382 545

Antidote: Civic Responsibility

Oregon Law

Phi Alpha Delta Public Service Center
• 1511 K Street, NW • Suite 611 • Washington, DC 20005•
• 202-638-2898 • fax 202-638-2919 •

BEST COPY AVAILABLE

SO 025 054

Lesson 1

1. **Has Aimee violated any State laws? Have her parents?**

   Aimee has not broken any law, because there is no statute which makes a minor liable for unintentionally dangerous acts toward another minor. Depending on the circumstances, however, the girls' parents may be charged with child neglect in the second degree, a Class A misdemeanor defined as, with criminal negligence, leaving a child under age 10 "unattended in or at any place for such period of time as may be likely to endanger the health or welfare of such child." Or. Rev. Stat. § 163.545 (1992).

2. **Does State statute allow 17-year-old Tyrell to drink a glass of wine with his dinner without his parents' consent?**

   Tyrell may drink the wine only in a private residence in his parents' presence and with their consent. Or. Rev. Stat. 471.430 (1992) states: "Except when [a] minor is in a private residence accompanied by the parent or guardian of the minor and with such parent's or guardian's consent, no person under the age of 21 years shall have personal possession of alcoholic liquor."

3. **Is Maria violating any law when she tells her roommates whom to call to buy marijuana?**

   If Maria is merely telling her friends the identity of someone she believes sells marijuana, she is probably not violating any statute. If she is acting to facilitate a drug purchase by her friends, i.e. is a key element in the sale of the marijuana and receives some consideration for her participation, she could be charged with delivery, although the drugs are not in her physical possession. Or. Rev. Stat. § 475.992(2)(b). This constitutes a Class B felony. If she is involved in this way, she may also be guilty of conspiracy under Or. Rev. Stat. § 161.450 (1992). The statute states: "A person is guilty of criminal conspiracy if with the intent that conduct constituting a crime punishable as a felony or a Class A misdemeanor be performed, the person agrees with one or more other persons to engage in or cause the performance of such conduct." Criminal conspiracy is considered a crime at the same level of the crime agreed upon: a Class A felony if the conspiracy involves a Class A felony, etc. If she is involved in a conspiracy, Maria may also be violating federal law under 21 U.S.C.A. § 846 (West 1993), which prohibits any attempt or conspiracy to commit any violation of federal drug control statutes.

4. **Have Adam and Alex broken any laws other than those against drinking and fighting?**

The twins have broken several laws in addition to those regarding drinking and fighting. They are certainly guilty of disorderly conduct by engaging in "fighting or in violent, tumultuous or threatening behavior" and creating "a hazardous or physically offensive condition by any act...not licensed...." Disorderly conduct is a Class B misdemeanor. Or. Rev. Stat. § 166.025 (1992). This is a Class B misdemeanor. Depending on the circumstances of the fight, they may also be guilty of menacing, whereby a person "by word or conduct...intentionally attempts to place another person in fear of imminent physical injury"; or of harassment, whereby a person "intentionally harasses or annoys another person by subjecting such other person to offensive physical contact; or publicly insulting such other person by abusive words or gestures in a manner intended and likely to provoke a violent response...." Menacing is a Class A misdemeanor; harassment is a Class B misdemeanor. Or. Rev. Stat. §§ 163.190 and 166.065 (1992).

The twins have probably also committed an assault. Depending on the circumstances, the charge may be second-degree assault, intentionally or knowingly causing serious physical injury to another; third-degree assault, intentionally or knowingly, and while being aided by another person actually present, causing physical injury to another person; or fourth-degree assault, intentionally, knowingly or recklessly causing physical injury to another. Second-degree assault is a Class B felony; third-degree assault is a Class C felony; fourth-degree assault is a Class A misdemeanor. Or. Rev. Stat. § 163.175 (1992); Or. Rev. Stat. §§ 163.165 and 163.160 (1992).

More seriously, the twins are guilty of criminally negligent homicide, a Class C felony defined in Or. Rev. Stat. § 163.145 (1992) as when, "with criminal negligence, the person causes the death or another person." The most likely charge is second-degree manslaughter, defined as criminal homicide "when it is committed recklessly." Or. Rev. Stat. § 163.125(1)(a) (1992).

Adam and Alex cannot use their intoxicated state during the brawl as a defense to any charges brought against them. Oregon law specifically provides that "[t]he use of controlled substances, dependence on drugs or controlled substances or voluntary intoxication shall not, as such, constitute a defense to a criminal charge..." and [w[hen recklessness establishes an element of the offense, if the defendant, due to the use of drugs or controlled substances, dependence on drugs or controlled substances or voluntary intoxication, is unaware of a risk of which the defendant would have been aware had the defendant been not intoxicated, not using drugs or controlled substances, or not dependent on drugs or controlled substances, such awareness is immaterial." Or. Rev. Stat. §

161.125 (1992).

5. **Has Jose violated any State law even though he is not drinking? Has Carlos or TJ violated any State law?**

If any of the three men are drinking in the car, Jose has broken the law. Oregon's open container law prohibits drinking "any alcoholic liquor in a motor vehicle when the vehicle is upon a highway"; possessing, "while in a motor vehicle upon a highway, any bottle, can or other receptacle containing any alcoholic liquor, which has been opened, or a seal broken, or the contents of which have been partially removed"; or even keeping an open container, as defined above, in the car while on any highway. The statute specifically states that it applies only to the registered owner of the vehicle or, in the owner's absence, the driver. Or. Rev. Stat. § 811.170 (1992) (emphasis added). As the driver, Jose is responsible for his companions' conduct. Since the alcohol is thereby considered to be in his possession, Jose is also guilty violating Or. Rev. Stat. § 471.430 (1992), which prohibits possession of alcohol by a minor. For such violation, Jose can be fined up to $250 and may lose his driving privileges for a period of 90 days to one year, as provided in Or. Rev. Stat. § 809.260 (1992).

TJ, also a minor, is certainly guilty of possession of alcohol, a violation of § 471.430. If he bought it himself, it is a further violation of the same code which prohibits the purchase of alcohol by a minor. He also faces a $250 fine and stands to lose his driving privileges for up to one year.

Carlos, the only adult present, has probably also broken the law. If he purchased the alcohol for himself and gave some to TJ, he has violated Or. Rev. Stat. § 471.410(2) (1992), which states: "No one other than the person's parent or guardian shall sell, give or otherwise make available any alcoholic liquor to a person under the age of 21 years." This is a Class A misdemeanor subject on first violation to a fine of $350.

6. **Is Dr. Melrose committing any violation by prescribing painkillers without conducting an examination or determining need?**

Dr. Melrose is violating not only state but federal law. Oregon law imposes upon a physician a duty of care, which requires a physician to use "that degree of care, skill and diligence which is used by ordinarily careful physicians...in the same or similar circumstances in the community or the physician...or a similar community." Or. Rev. Stat. § 677.095 (1992). Certainly ordinarily careful physicians generally examine their patients before prescribing drugs with the potential for abuse. The law also states: "A controlled substance shall not be delivered or dispensed other than for a medical purpose." Or. Rev. Stat. § 475.185 (1992). Without

examination, Dr. Melrose cannot be certain the drug is being dispensed for a medical purpose. Therefore, the prescription is invalid and Dr. Melrose is violating Or. Rev. Stat. § 475.992 (1992), which prohibits delivery of controlled substances. In addition, the Board of Medical Examiners may revoke a physician's license for violation of the Federal Controlled Substance Act or for "[p]rescribing controlled substances without a legitimate medical purpose or prescribing controlled substances without following accepted procedures for examination of patients...." Or. Rev. Stat. § 677.190(24) and (25) (1992). Under U.S. law 21 U.S.C.A. § 829 (West 1993), a physician must have a legitimate medical purpose for dispensing drugs, and the act of dispensing or prescribing drugs should be within the usual course of professional practice. U.S. v. Varma, 691 F.2d 460 (1982); U.S. v. Jamieson, 605 F.Supp. 119 (1985).

Dr. Melrose's patients, if they do not provide to him a bona fide reason for needing the painkillers, may also be breaking the law. Since the prescription is invalid, they are also violating § 475.992 barring possession of a controlled substance. In addition, federal law 21 U.S.C.A. § 843 (West 1993) prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

7. **Is Danielle violating any law by taking only one or two pills from someone else's prescription?**

Danielle is violating several state laws. Oregon law defines theft as "when, with intent to deprive another of property or to appropriate property to the person or to a third person, the person takes, appropriates, obtains or withholds such property from an owner thereof...." Or. Rev. Stat. § 164.015(1) (1992). If the total value of the various pills Danielle has taken is less than $500, her actions constitute second-degree theft; if more than $500, it is first-degree theft. Second-degree theft is a Class A misdemeanor, while a first-degree offense is a Class C felony. The separate acts of theft may be aggregated into one offense to calculate the value of the stolen property. Or. Rev. Stat. §§ 164.045 and 164.055 (1992).

More serious is the fact that she is stealing controlled substances. Danielle is effectively dispensing the drugs to herself and is therefore violating Or. Rev. Stat. § 475.185 (1992), which provides: "A controlled substance shall not be delivered or dispensed other than for a medical purpose." Since the prescription drug in her possession is for another person, she is also violating Or. Rev. Stat. § 475.992 (1992), which prohibits possession of controlled substances without a prescription.

Danielle is also violating U.S. law under 21 U.S.C.A. § 843 (West 1993), which prohibits knowingly or unknowingly

acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge, and 21 U.S.C.A. § 844 (West 1993), which prohibits simple possession of a controlled substance unless such substance was obtained by prescription. The seriousness of her crime under these drug control codes will depend on the type of drug which she is taking from the customer's prescription and how she uses it.

8. **Is Renee breaking state law even though she is not selling the drugs herself?**

Even though she is not selling the drugs directly, Renee is violating several state and federal laws, including Or. Rev. Stat. § 475.185 (1992), which prohibits delivering or dispensing a controlled substance for other than a medical purpose, and Or. Rev. Stat. § 475.992 (1992), which prohibits possession of controlled substances without a prescription. In addition, her use of her daughter in drug trafficking violates Or. Rev. Stat. § 167.262, which states: "It is unlawful for an adult to knowingly use as an aider or abettor or to knowingly solicit, force, compel, coerce or employ a minor, with or without compensation to the minor, to manufacture a controlled substance or to transport, carry, sell, give away, prepare for sale or otherwise distribute a controlled substance." Such action constitutes a Class A felony. By selling to schoolchildren, Renee violates Or. Rev. Stat. § 475.999, which provides that unlawful manufacture or delivery of a controlled substance within 1,000 feet of a school is a Class A felony.

By having her daughter sell the drugs, Renee is guilty of endangering the welfare of a minor by permitting "a person under 18 years of age to enter or remain in a place where unlawful activity involving controlled substances is maintained or conducted." Or. Rev. Stat. § 163.575 (1992). Such disregard for her child's welfare also constitutes child neglect in the second degree, a Class A misdemeanor defined as, with criminal negligence, leaving a child under age 10 "unattended in or at any place for such period of time as may be likely to endanger the health or welfare of such child." Or. Rev. Stat. § 163.545 (1992). Under the circumstances, Renee is likely to lose custody of her daughter.

Renee is also violating federal statues such as 21 U.S.C.A. § 841 (West 1993), prohibiting possession of a controlled substance with the intent to manufacture, distribute or dispense such substance; 21 U.S.C.A. § 844 (West 1993), prohibiting simple possession of a controlled substance; and 21 U.S.C.A. § 861 (West 1993), prohibiting the knowing and intentional use of any person under 18 years of age to violate any federal drug control provision.

In addition, Renee could receive heavier sentencing under federal statutes. Under 21 U.S.C.A. § 859 (West 1993),

the distribution of a controlled substance to a person under 21 years of age is subject to increased penalties. The United States expressed its concern with the importance of protecting children from drug trafficking under 21 U.S.C.A. § 860 (West 1993), which imposes heavier prison sentences in cases involving the distribution or manufacture of controlled substances in the proximity of schools, playgrounds, or youth centers. 18 U.S.C.A. App. 4 § 3B1.3 (West 1993) also provides for increased sentences in cases of abuse of position of trust, as in a drug trafficking defendant's involvement of her young daughter in the drug trade. U.S. v. Ledesma, 979 F.2d 816 (1992).

9. **Did Jim violate any law other than those regarding controlled substances?**

The Oregon legislature has not yet created any laws regarding this situation nor has it arisen in Oregon courts. Under the Model Penal Code, however, such behavior could constitute simple or aggravated assault or the attempt thereof, or reckless endangerment; under certain extreme situations, it could be construed as murder. See Gene Schultz, AIDS: Public Health and the Criminal Law, 7 St. Louis U. Pub. L. Rev. 65 (1988); Roger N. Braden, AIDS: Dealing With the Plague, 19 N. Ky. L. Rev. 277 (1992). In some cases, it has been suggested that the HIV virus provides a deadly weapon. Cf. Brock v. State, 555 So.2d 285 (Ala. Crim. App. 1989).

Jim's companion Andre may be liable for Jim's death by overdose. By helping Jim shoot up, Andre may be guilty of first-degree assault, intentionally causing serious physical injury to another by means of a deadly or dangerous weapon. Or. Rev. Stat. § 163.185 (1992). Andre's role in giving Jim the drugs may constitute criminal homicide, defined as when, "without justification or excuse, the person intentionally, knowingly, recklessly or with criminal negligence causes the death of another human being." Criminal homicide encompasses murder, manslaughter or criminally negligent homicide. Or. Rev. Stat. § 163.005 (1992). Criminal homicide constitutes murder "when it is committed intentionally." The penalty for murder is life imprisonment. Or. Rev. Stat. 163.115 (1992).

The lesser charge of criminally negligent homicide is possible. Criminally negligent homicide is a Class C felony defined as when, "with criminal negligence, the person causes the death or another person." Or. Rev. Stat. § 163.145 (1992). Another possible charge is second-degree manslaughter, defined as criminal homicide "when it is committed recklessly." Or. Rev. Stat. § 163.125(1)(a) (1992).

Andre's intoxication by use of controlled substances at the time will not be allowed as a defense to any charges brought against him. Oregon law specifically provides that "[t]he use of controlled substances, dependence on drugs or controlled

substances or voluntary intoxication shall not, as such, constitute a defense to a criminal charge..." and [w[hen recklessness establishes an element of the offense, if the defendant, due to the use of drugs or controlled substances, dependence on drugs or controlled substances or voluntary intoxication, is unaware of a risk of which the defendant would have been aware had the defendant been not intoxicated, not using drugs or controlled substances, or not dependent on drugs or controlled substances, such awareness is immaterial." Or. Rev. Stat. § 161.125 (1992).

10. **Has the bartender or the owner at Bulldog's Bar and Grill violated any law?**

Both the bartender and the owner may be held liable, given Su's obviously intoxicated condition. Oregon law prohibits selling, giving, serving, dispensing or otherwise making available any alcoholic liquor to any person "who is visibly intoxicated." Or. Rev. Stat. §§ 471.410(1) and 472.310(3) (1992). Violations of this kind are subject to a fine of up to $500 and up to six months in the county jail, or both. Or. Rev. Stat. § 472.990 (1992). The law specifically provides, however, that "[n]o licensee, permittee or social host is liable for damages incurred or caused by intoxicated patrons or guests off the licensee, permittee or social host's premises unless the licensee, permittee or social host has served or provided the patron alcoholic beverages to the patron or guest [sic] while the patron or guest was visibly intoxicated and the plaintiff proves by clear and convincing evidence that the patron or guest was served alcoholic beverages while visibly intoxicated." Or. Rev. Stat. § 30.950 (1992) (emphasis added). All applicants for various liquor licenses and permits are required to complete alcohol server education programs, which include instruction on prohibition of sales to intoxicated persons, minors, etc., drunk driving statutes and liquor liability statutes. Or. Rev. Stat. § 471.542 (1992).

Lesson 2

CRIMINAL JUSTICE STATISTICS: DRUG AND ALCOHOL RELATED OFFENSES

UNIFORM CRIME REPORT DATA OF 1990--CRIME IN THE UNITED STATES

According to the Uniform Crime Report of 1990, 68% of the drug abuse violators were arrested for possession of heroin, cocaine or a narcotic derivative. A little over 31% of drug arrests were for the sale and manufacture of drugs.

Out of the 14,195,100 total number of arrests that occurred in 1990, drug abuse violations accounted for 1,089,500, driving under the influence comprised 1,810,800, and liquor law violations represented 714,700 of the total.

1981-1990 Ten Year Trend

Arrests for Drug Abuse Violations

In 1981, the total number of arrests for drug abusers under the age of 18 was 69,383. On the other hand in 1990, the total number was 50,435. This represents a 27.3% **decrease** in the number of arrests for persons under the age of 18. However, the number of arrests for persons over the age of 18 represent an 89.9% **increase** from 332,733 in 1981 to 631,932 in 1990.

Liquor Law Violations

For persons over the age of 18, the number of arrests for liquor law violations have dramatically **increased** to 61% from 218,079 in 1981 to 351,064 in 1990. However, the number of arrests for persons under the age of 18 has decreased to less than 0.4%.

♦ ♦ ♦

Criminal Victimization in the United States, 1990
A National Crime Victimization Survey Report, February, 1992

Percent Distribution of Victimizations by Perceived Drug or Alcohol Use by Offender:

- Of the **130,260** total rapes reported by victims to police, **49.8%** were believed to be committed by someone under the influence of drugs or alcohol.
- Of a total of **1,149,710** reported robberies, **24.2%** involved an offender under the influence of drugs or alcohol.
- Of **1,600,760** aggravated assaults committed **40%** were committed by people under the influence of drugs.
- Of the **3,128,130** simple assaults reported, **32.9%** were perpetrated by someone perceived to be under the influence of drugs or alcohol.

Lesson 4

FEDERAL SCHEDULE (answers to handout 3)

DRUG	SCHEDULE
heroin	schedule 1
beer	not a scheduled drug
vodka	not a scheduled drug
nitrate	not a scheduled drug
amphetamines	schedule 3
caffeine	not a scheduled drug
marijuana	schedule 1
crack	schedule 2
scotch	not a scheduled drug
MSG	not a scheduled drug
cocaine	schedule 2
glue	not a scheduled drug

FEDERAL PENALTIES BY SCHEDULE FOR POSSESSION

SCHEDULE	MAX. PRISON	MAX. FINE	MAX. TOTAL
schedule 1	15 years	$25,000	15yrs + $25,000
schedule 2	15 years	$25,000	15yrs + $25,000
schedule 3	5 years	$15,000	5yrs + $15,000
schedule 4	3 years	$10,000	3yrs + $10,000
schedule 5	1 year	$ 5,000	1yr + $ 5,000
unscheduled drug	n/a	n/a	n/a

The penalty doubles if the defendant has a previous conviction for a schedule law violation.

In order for a drug to be a narcotic, it must be a derivative of opium. All narcotics contain opium or opium derivatives, ie: heroin.

Malt beverages such as beer are not included in the scheduling process. They are controlled by liquor laws.

Information from 21 U.S.C.A. § 841 (West 1981).

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Alabama	sch 1	sch 2	sch 2	sch 1	sch 3
Alaska	sch 1A	sch 2A	sch 2A	sch 3A	sch 4A
Arizona	sch 1	sch 2	sch 2	sch 1	sch 2
Arkansas	sch 1	sch 2	sch 2	sch 1	not listed
California	sch 1	sch 2	sch 2	sch 1	sch 2
Colorado	sch 1	sch 2	sch 2	sch 1	sch 2
Connecticut	sch 1	sch 2	sch 2	sch 1	sch 3
Delaware	sch 1	sch 2	sch 2	sch 1	sch 2
D.C.	sch 1	sch 2	sch 2	sch 2	sch 2
Florida	sch 1	sch 2	sch 2	sch 1	sch 2
Georgia	sch 1	sch 2	sch 2	sch 1[1]	sch 2
Hawaii	sch 1	sch 2	sch 2	sch 1	sch 2
Idaho	sch 1	sch 2	sch 2	sch 1	sch 2
Illinois	sch 1	sch 2	sch 2	listed under its act: the Cannabis Control Act, 56 1/2 §701 et seq	sch 2
Indiana	sch 1	sch 2	sch 2	sch 1	sch 2
Iowa	sch 1	sch 2	sch 2	sch 1	sch 2
Kansas	sch 1	sch 2	sch 2	sch 1	sch 1
Kentucky	sch 1	sch 2	sch 2	sch 1	sch 2
Louisiana	sch 1	sch 2	sch 2	sch 1	sch 2
Maine[2]	sch W	sch W	sch W	sch W & Z	sch W
Maryland	sch 1	sch 2	sch 2	sch 1	sch 1
Massachusetts[3]	class A	class B	class B	class D	class B
Michigan	sch 1	sch 2	sch 2	sch 1	sch 2
Minnesota	sch 1	sch 2	sch 2	sch 1	sch 2
Mississippi	sch 1	sch 2	sch 2	sch 1	sch 2
Missouri	sch 1	sch 2	sch 2	sch 1	sch 2
Montana	sch 1	sch 2	sch 2	sch 1	sch 2

[1] Must have more than 15% THC (tetrahydrocannabinol), the chemical in the cannabis plant.

[2] Maine schedules its drugs under an alphabetical category: W, X, Y & Z. The schedules are similar to other state categorizations.

[3] Massachusetts calls their schedules classes, but they are the same thing.

BEST COPY AVAILABLE

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Nebraska	sch 1	sch 2	sch 2	sch 1	sch 2
Nevada[4]	sch 1	sch 2	sch 2	sch 1	sch 3
New Hampshire	sch 1	sch 2	sch 2	sch 1	sch 3
New Jersey	sch 1	sch 2	sch 2	sch 1	sch 3
New Mexico	sch 1	sch 2	sch 2	sch 1 & 2	sch 2
New York	sch 1	sch 2	sch 2	sch 1	sch 2
North Carolina	sch 1	sch 2	sch 2	NC has a sixth schedule which incl. marijuana	sch 2
North Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Ohio	sch 1	sch 2	sch 2	sch 1	sch 2
Oklahoma	sch 1	sch 2	sch 2	sch 1	sch 2
Pennsylvania	sch 1	sch 2	sch 2	sch 1	sch 2
Puerto Rico	sch 1	sch 2	sch 2	sch 1	sch 3
Rhode Island	sch 1	sch 2	sch 2	sch 1	sch 2
South Carolina	sch 1	sch 2	sch 2	sch 1	sch 2
South Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Tennessee	sch 1	sch 2	sch 2	sch 2, but only for certified patients under the Controlled Substances Therapeutic Research Act	sch 2
Texas	sch 1	sch 2	sch 2	sch 1	sch 2
Utah	sch 1	sch 2	sch 2	sch 1	sch 2
Vermont	sch 1	sch 2	sch 2	sch 1	sch 3
Virginia	sch 1	sch 2	sch 2	not listed, but liquid marijuana or hashish oil is listed as sch 1	sch 2
Washington	sch 1	sch 2	sch 2	sch 1	sch 2
West Virginia	sch 1	sch 2	sch 2	sch 1	sch 2
Wisconsin	sch 1	sch 2	sch 2	sch 1	sch 2

[4] While Nevada does not specifically name drugs under its five schedules, but instead lists the specific tests to determine under which schedule a drug belongs § 453.2182 says that the state will use 21 USC as a guide for scheduling. The state merely reserves the right to reschedule any controlled substance as it sees fit according to the tests set out in 453.166, et. seq.

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Wyoming	sch 1	sch 2	sch 2	sch 1	sch 2

OFFENSE/SUBSTANCE	SENTENCE
First Offense: Cocaine - Possession With Intent To Distribute - 5 kg	• imprisonment for up to 10 years, and • fine up to $100,000
First Offense: Trace of Heroin - Possession of 1 kg or more of a mixture with a small, but detectable amount of heroin	• imprisonment for up to 10 years, and • fine up to $100,000
First Offense: Codeine - Possession - 200 mg	• imprisonment for up to 5 years, and • fine up to $100,000
Second Offense: Marijuana - Possession - 50 kg	• imprisonment for up to 20 years, and • fine up to $200,000
Third Offense - Methamphetamine - Possession - 100 g	• imprisonment for up to 10 years, and • fine up to $100,000

Cite: ORS § 475.992

Current Federal Penalties:

Group 1 and Group 2: . . . person shall be sentenced to prison which may not be less than 10 years or more than life and a fine not to exceed 4 million dollars.

Group 3: . . . person shall be sentenced to a term of imprisonment of not more than one year, a fine not exceed $250,000 in the case of an individual.

Group 4: . . . person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed $500,000.

Group 5: . . . person shall be sentenced mandatory life imprisonment without release and fine not to exceed $8 million.

Cite: 21 U.S.C. § 841 (1992).

Lesson 6 & 7

1. **What does DWI stand for?**

Driving while intoxicated.

2. **What does DUI stand for?**

Driving under the influence. Under §813.010 it is illegal for a person to drive while under the influence of intoxicating liquor or with a blood alcohol concentration of 0.08 or more.

3. **In terms of penalties, is being convicted of DWI more serious than being convicted of DUI?**

There is no distinction between the two offenses under Oregon law.

4. **What are the penalties for being convicted of DWI? DUI?**

Violation of §813.010 is a class A misdemeanor with a fine of $175 (§ 813.030) and imprisonment for 48 hours. Section 813.020 mandates a person go through an examination by an agency designated by the court to determine if the individual has an alcohol abuse problem. Penalties for subsequent offenses are not defined.

5. **What is the penalty for refusing to submit to a breathalyzer test upon a police officer's reasonable request?**

Under §813.100 any person who drives upon the roads of Oregon is deemed to have given consent to a breath test. Refusal of such test will lead to the suspension of driving privileges for 30 days. §813.410.

6. **What must a person's blood alcohol content (BAC) be before he/she is legally intoxicated?**

Under §813.130 if a person's BAC is 0.08 or more s/he is legally intoxicated.

7. **The legal limit for blood alcohol is lower for persons under the legal drinking age of 21. True or False?**

True. Under Oregon law if a minor, anyone under 21, has any alcohol in his/her blood s/he is legally intoxicated.

8. **An open container of alcohol can be in your car if you are 21 or over. True or False?**

False. Under §811.170 it is illegal for any person to drink or be in possession of any open bottle of alcohol while driving or in a motor vehicle.

Lesson 9

Although the drinking age is 21 in all 50 states (meaning specifically that the sale of alcohol to minors is prohibited), the laws on teenage drinking vary from state to state. The laws vary in regard to whether they include prohibition of the purchase of alcohol, the attempt to purchase alcohol, the consumption of alcohol and the possession of alcohol. According to the **March 11, 1993 Safety Recommendation report of the National Transportation Safety Board,**

- Five states (DE, FL, MT, NH & NY) and the District of Columbia do not prohibit the purchase of alcohol by minors.
- West Virginia and the District of Columbia do not prohibit public possession of alcohol by minors.
- 23 states (AK, AR, DE, DC, FL, GA, RI, IL, IA, LA, ME, MD, MI, MS, MT, NV, NH, NY, SC, TX, UT, VT, VA) do not prohibit minors from attempting to purchase alcohol.
- 21 states (AR, CO, CT, FL, GA, HI, IA, KY, LA, MA, MS, MO, NE, NH, NM, NC, OR, SC, VT, WV, WY) do not prohibit alcohol consumption by minors.
- 16 states (AR, CA, CO, HI, KY, LA, ME, MI, NM, NY, NC, OK, SD, VA, WA, WY) do not prohibit minors from misrepresenting their age in order to purchase alcohol.
- 19 states (AL, AR, CO, DE, DC, IA, KS, LA, MD, MN, MT, NJ, OR, PA, SC, UT, VA, WA, WI) do not prohibit minors from presenting false ID to purchase alcohol.

In addition, most states do no prohibit minors from driving with alcohol in their blood unless their blood alcohol content reaches the adult legal limit, which is .10 percent in most states. Fifteen states, however, have amended their laws to lower for minors the permitted blood alcohol content while driving. These laws vary according to the age under which minors must be in order for the lower blood alcohol content to apply. Here is the layout for state laws on blood alcohol content for minors while driving:

0.00 BAC	0.01 BAC	0.02 BAC	0.04 BAC	0.05 BAC	0.06 BAC
AZ (<21)	NJ (<21)	ME (<21)	RI (<21)	CA (<18)	GA (<18)
NC (<19)		MD (<21)	NH (<21)	NM (<18)	
OR (<21)		OH (<18)			
UT (<21)		VT (<18)			
WI (<18)					

A number of states have tried to cut down on teenage driving accidents by implementing nighttime driving restrictions. The following states have some form of curfew for teenage driving:

ID: minors <16 can drive during the daytime only
IL: minors <17 cannot drive between 11pm-6am Mon-Thur and 12am-6am Fri-Sun
LA: minors <15 cannot drive between 11pm-6am Mon-Thur and 12am:6am Fri-Sun
MD: minors <16 cannot drive between 12am-5am
MA: minors <18 cannot drive between 1am-4am
NY: minors <18 cannot drive between 9pm-5am
PA: minors <18 cannot drive between 12am-5am
SD: minors <16 cannot drive between 8pm-6am.

BEST COPY AVAILABLE